

United States District Court
Eastern District of Michigan

United States of America

v.

James Kearney /
 Defendant

ORDER OF DETENTION PENDING TRIAL

Case Number: 07-30143

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I – Findings of Fact

“ (1) I find that:

- “ there is probable cause to believe that the defendant has committed an offense
- “ for which a maximum term of imprisonment of ten years or more is prescribed in 21 U.S.C. § 841 or 846;
- “ under 18 U.S.C. § 924(c).

“ (2) I further find that the defendant has not rebutted the presumption established by finding that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings

T I find that the government has established by a preponderance of the evidence that there is a serious risk that the defendant will not appear. - Repeatedly failed to comply with terms of probation.

T I find that the government has established by clear and convincing evidence that there is a serious risk that the defendant will endanger the safety of another person or the community. - Multiple convictions for assaultive crimes, several involving dangerous weapons. Numerous domestic violence cases.

Part II – Written Statement of Reasons for Detention

T I find that the credible testimony and information submitted at the hearing established the following factors under 18 U.S.C. § 3142(g):

- T** (a) nature of the offense - Felon in possession of firearm.
- T** (b) weight of the evidence - Very strong, and includes drug distribution as well.
- T** (c) history and characteristics of the defendant - Terrible record of assaultive crimes and crimes involving theft.
 - T** 1) physical and mental condition - Good health.
 - T** 2) employment, financial, family ties - Minimal employment history, but has family ties.
 - T** 3) criminal history and record of appearance - No failures to appear, but poor compliance with court ordered conditions/restrictions.
- “ (d) probation, parole or bond at time of the alleged offense -
- T** (e) danger to another person or community - Long history of assaultive offenses and repeated involvement with firearms.

I concur with Pretrial Services' assessment that defendant is a danger to the community. I further find that he is a flight risk by reason of his history of poor adjustment to court ordered limits and his probable eligibility for a high guideline sentence.

Part III – Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

s/Donald A. Scheer

Signature of Judge

Donald A. Scheer, United States Magistrate Judge

Name and Title of Judge

Date: March 19, 2007